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UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
WASHINGTON, D. C.

ORDER SERIES—ORDER NO. 9

(Issued by the Secretary of Agriculture May 23, 1936)
(Effective 12:01 a. m., E. S. T. May 25, 1936)

**ORDER REGULATING THE SHIPPING OF FRESH PEARS,
PLUMS, AND ELBERTA PEACHES GROWN IN THE
STATE OF CALIFORNIA**

Whereas, it is provided in Section 8c of the Agricultural Adjustment Act, approved May 12, 1933, as amended (hereinafter called the act), as follows:

(1) The Secretary of Agriculture shall, subject to the provisions of this section, issue, and from time to time amend, orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of this section. Such persons are referred to in this title as "handlers." Such orders shall regulate, in the manner hereinafter in this section provided, only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof.

and

Whereas, the Secretary of Agriculture, having reason to believe that the issuance of an order would tend to effectuate the declared policy of the act to establish and maintain such marketing conditions for California fresh deciduous tree fruits (except apples) as would reestablish prices to farmers at a level that would give such commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of such commodities in the base period, did, pursuant to the provisions of the act and the regulations thereunder, on the 5th day of February, 1936, give notice of a hearing to be held at Sacramento, California, on February 20, 1936, on a proposed order regulating the handling of fresh California deciduous tree fruits (except apples), and did upon said date and at said place conduct a public hearing thereon and did give due opportunity to all interested parties to be heard concerning said proposed order; and

Whereas, the Secretary of Agriculture has found and proclaimed that the purchasing power of fresh pears, plums and Elberta peaches grown in the State of California during the base period, August 1909–July 1914, cannot be satisfactorily determined from available statistics of the Department of Agriculture, but that the purchasing power of fresh pears, plums and Elberta peaches can be satisfactorily determined from available statistics of the Department of Agriculture for the period, 1920–1928; and

Whereas, the Secretary of Agriculture has found and proclaimed the period, 1920-1928, to be the base period with respect to fresh pears, plums and Elberta peaches for the purposes of this order; and

Whereas, the Secretary of Agriculture finds upon the evidence introduced at said hearing and the record thereof:

(1) That customarily large quantities of California fresh pears, plums and Elberta peaches are shipped in the current of interstate and foreign commerce;

(2) That the average farm price for California fresh pears and Elberta peaches during the 1935 season was below the price which would give such commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of such commodities in the base period; and that the average farm price of California fresh plums during the 1935 season was, due in a large measure to the shortness of the crop, slightly above the price which would give such commodity a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of such commodity in the base period. However, the present bearing acreage of such plums will produce, with an average yield per acre, such quantity of said plums as is in excess of the quantity which, under probable demand conditions during the 1936 season, would return to producers thereof prices which would give such plums the purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of such fruit during the base period;

(3) That the annual production of pears grown in the State of California was 218,000 tons in 1931; 238,000 tons in 1932; 221,000 tons in 1933; 233,000 tons in 1934; and 169,000 tons in 1935, as compared with an average annual production of pears grown in the said State for the five-year period, 1925-1929, inclusive, of 196,700 tons;

(4) That with yield per acre equal to the average yield per acre during the 15-year period ending 1934, the bearing acreage of pears in the State of California in 1935 would produce approximately 240,000 tons, equivalent to an increase of approximately 11 percent over average production of pears in the State of California during the five-year period ending 1935, and an increase of 42 percent over the production of pears in the State of California in 1935;

(5) That the annual production of plums grown in the State of California was 65,000 tons in 1931; 68,000 tons in 1932; 57,000 tons in 1933; 62,000 tons in 1934; and 48,000 tons in 1935, as compared with an average annual production of plums grown in said State for the five-year period, 1925-1929, inclusive, of 57,000 tons;

(6) That with yield per acre equal to the average yield per acre during the 15-year period ending 1934, the present bearing acreage of plums in the State of California would produce approximately 65,000 tons, equivalent to an increase of approximately 8 percent over average production of plums in the State of California during the five-year period ending 1935 and an increase of 35 percent over the production of plums in said State in 1935;

(7) That the annual production of freestone peaches grown in California was 182,000 tons in 1931; 207,000 tons in 1932; 179,000 tons in 1933; 171,000 tons in 1934; and 148,000 tons in 1935, as compared

with an annual production of said peaches grown in the State of California for the five-year period, 1925-1929, inclusive, of 181,600 tons;

(8) That with yield per acre equal to the average yield per acre during the eight-year period, ending 1934, the bearing acreage of freestone peaches in the State of California in 1934 would result in crops approximately equivalent to the annual production of said peaches for the five-year period ending 1935, or an increase of 21 percent over the production of said peaches in 1935;

(9) That (1) period regulation of shipments, (2) regulation of the daily movement of shipments, (3) prohibition of loadings and (4) limitation of shipments by grades and sizes, subject to the terms and conditions contained in this order, will tend to prevent marked fluctuation in prices to growers and establish and maintain a more stabilized market, tending to restore prices to growers at a level that would give the commodities specified in this order a purchasing power with respect to articles that growers buy, equivalent to the purchasing power of such commodities in the base period;

(10) That the respective methods of prorating shipments among shippers as prescribed in this order and the methods of regulating shipments by grades and by sizes are fair and equitable;

(11) That all the remaining provisions of this order are necessary to effectuate the other provisions of this order; and

(12) That this order is limited in its application to the smallest regional production area that is practicable, and that the issuance of several orders applicable to any subdivisions of the regional area covered by this order would not effectively carry out the declared policy of Title I of the act with respect to establishing and maintaining such marketing conditions for fresh pears, plums and Elberta peaches grown in the State of California, as will reestablish prices to growers at a level that will give such commodities a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of such commodities in the base period;

(13) That the expenses that will necessarily be incurred by the Control Committee during the season April 1, 1936 to March 31, 1937 for general overhead expenses of the Control Committee will be approximately \$11,550; that said expenses are fair and reasonable; and that the pro rata share thereof of each shipper in the amount of 4 mills per hundred pounds of such fruit shipped is fair and reasonable and is approved;

(14) That the interest of the consumer is protected by reason of the fact that this order is designed to operate so as to approach the level of prices which it is declared to be the policy of Congress to establish by securing a gradual correction of the current level of prices at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in the domestic and foreign markets, and by reason of the fact that the order authorizes no action which has for its purpose the maintenance of prices to farmers above the level which it is declared to be the policy of Congress to establish under subsection (1) of Section 2 of said Title I; and

(15) That the issuance of this order and all the terms and conditions thereof, will tend to effectuate the declared policy to establish

and maintain such marketing conditions for fresh pears, plums and Elberta peaches grown in the State of California as will reestablish prices to growers at a level that will give such commodities a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of such commodities in the base period; and

Whereas, the Secretary of Agriculture finds (1) that the marketing agreement regulating the shipping of fresh pears, plums and Elberta peaches grown in the State of California, executed by him on the 23rd day of May, 1936, and upon which a public hearing was held on February 20, 1936, was signed by shippers who handled more than 50 percent of the volume of such commodities produced annually; and (2) that this order regulates the handling of said commodities in the same manner as the said marketing agreement does, and is made applicable only to persons in the respective classes of industrial and commercial activity specified in the aforesaid marketing agreement; and

Whereas, the Secretary of Agriculture finds and determines that the issuance of this order is favored by producers who, during the period January 1, 1934, to December 31, 1935, which the Secretary determines to be a representative period, produced for market at least two-thirds of the volume of each of such commodities, produced for market within the production area specified in such order; and

Whereas, the purposes of this order are (1) to correct conditions now obtaining in the handling of fresh pears, plums and Elberta peaches grown in the State of California, and to establish and maintain such marketing conditions therefor as will reestablish prices to farmers at a level that will give fresh pears, plums and Elberta peaches grown in the State of California a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of fresh pears, plums and peaches during the period 1920-1928, and (2) to protect the interest of the consumer by (a) approaching such level at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and (b) authorizing no action which has for its purpose the maintenance of prices to farmers above such level.

Now, THEREFORE, it is ordered by the Secretary of Agriculture, acting under the authority vested in him as aforesaid, that the shipping of said pears, plums and Elberta peaches grown in the State of California, in the current of interstate or foreign commerce or so as directly to burden, obstruct or affect interstate or foreign commerce in such commodities, from or after the date herein specified shall be in conformity to and in compliance with the terms and conditions of this order.

ARTICLE I—DEFINITIONS

SECTION 1. *Definitions*.—As used in this order.

1. "Secretary" means the Secretary of Agriculture of the United States.

2. "Act" means the Agricultural Adjustment Act, approved May 12, 1933, as amended.

3. "Person" means individual, partnership, corporation, association or any other business unit.

4. "Fruit" means any and all varieties of pears, plums, and Elberta peaches grown in the State of California, and shipped in fresh form.

5. "Grower" or "Producer" means any person who produces fruit, as owner or tenant, for sale or shipment in the current of interstate or foreign commerce or so as directly to burden, obstruct or affect such commerce.

6. "To ship" means to convey or cause to be conveyed, except as a common carrier for another person, to market, to consign or in any way to handle fruit in the current of interstate or foreign commerce or so as directly to burden, obstruct or affect such commerce.

7. "Shipper" means any person engaged in shipping fruit from or within California, in person or through an agent, broker or representative, employee or otherwise, in the current of interstate or foreign commerce or so as directly to burden, obstruct or affect such commerce.

8. "Season" means the twelve-month period beginning April 1 and ending March 31, both inclusive.

9. "Subsidiary" means any person, of or over whom or which a shipper or an affiliate of a shipper has, or several shippers collectively have, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

10. "Affiliate" means any person or any subsidiary thereof who or which has, either directly or indirectly, actual or legal control of or over a shipper, whether by stock ownership or in any other manner.

11. "Agreement" means the Marketing Agreement Regulating the Shipping of Fresh Pears, Plums, Elberta Peaches, Apricots, and Cherries grown in the State of California.

12. "Variety" means any sub-species of fruit generally recognized by the trade, such as the Santa Rosa plum, Elberta peach or Buerre Hardy pear.

ARTICLE II—SUPERVISORY BODIES

SECTION 1. *Control Committee Membership.*—1. A Control Committee is hereby established consisting of twelve (12) shipper members and thirteen (13) grower members. The members and alternates shall be selected annually for a term ending March 1, and until their successors are selected and have qualified.

2. The Secretary shall select the members of the Control Committee and their respective alternates from persons nominated by shippers and from persons nominated by the respective commodity committees as hereinafter provided, or from among other persons.

3. Nominations for and selection of the twelve (12) members and twelve (12) alternates of the Control Committee to represent shippers shall be made in the following manner:

(a) Elective bodies may be formed consisting of any shipper or group of shippers who shipped at least one-third of the total tonnage of fruit shipped during the preceding marketing period by all shippers. Each elective body shall be entitled to nominate five (5)

persons for members and five (5) persons for alternates. In the event an elective body is composed of more than one (1) shipper, each such shipper shall cast his vote on the basis of fruit shipped by such shipper during the previous marketing period. Voting shall be cumulative. Shippers who have sufficient tonnage to form singly one or more elective bodies shall not be entitled to use their fractional tonnage toward the formulation of an additional elective body.

(b) In the event nominations for the full shipper membership and their alternates of the Control Committee are not made by elective bodies, as provided for in sub-paragraph (a) of this paragraph, by February first of each year, the then existing Control Committee shall announce a time and place of an election meeting of all shippers of fruit who have not individually or collectively formed an elective body nor in any manner participated therein and shall conduct such election: *Provided, however,* That for the season of 1936, such election shall be held if nominations for the full shipper membership of the Control Committee are not made by elective bodies, as provided for in sub-paragraph (a) of this paragraph, within thirty (30) days after the effective date of this order. At said election meeting such shippers shall make one nomination for each of the remaining members and one nomination for each of their alternates and shall make one additional nomination for members and one additional nomination for alternates. In such an election, each such shipper shall cast but one vote. No shipper who, either singly or combined, formed an elective body or participated therein shall participate in or vote at such election. Nominations for the initial shipper members and alternates of the Control Committee shall be supervised by the persons constituting the Control Committee of the Marketing Agreement for California Fresh Deciduous Tree Fruits, except Apples executed by the Secretary on July 17, 1935.

(c) No shipper shall be entitled to participate in the nomination of members and alternates of the Control Committee or be eligible for membership on either the Control Committee or the Sales Managers' Committee if he has failed to pay his contributions pursuant to article VII of this order.

(d) From the nominations made by each elective body pursuant to sub-paragraph (a) of this paragraph, or from other persons, the Secretary shall select four (4) members and four (4) alternates. From the nominations made pursuant to subparagraph (b) of this paragraph, or from other persons, the Secretary shall select the remaining shipper members of the Control Committee.

4. Nominations for the thirteen (13) members and thirteen (13) alternates of the Control Committee to represent growers shall be made by the Commodity Committees in the following manner:

(a) A nomination for one member and a nomination for the alternate of such member shall be made by each Commodity Committee. Nominations for the remaining members and alternates to represent growers shall be made by the respective Commodity Committees. The number of the remaining members and their alternates which each Commodity Committee shall be entitled to nominate shall be based upon the proportion that the previous three years' shipments of the fruit under its jurisdiction bears to the total shipments of all fruit covered by this order during such previous three years.

(b) A person nominated by any Commodity Committee for a member or alternate of the Control Committee shall be an individual person who is solely a producer or who produces at least fifty-one (51) percent of the total fruit shipped by him. In the nomination of such persons for members or alternates of the Control Committee, each member of the respective Commodity Committees shall have but one (1) vote.

(c) From the nominations made pursuant to paragraph 4 of this section, or from other persons, the Secretary shall select the grower members of the Control Committee.

SEC. 2. *Commodity Committee Membership.*—A Commodity Committee consisting of seven (7) members shall be established for each of the following fruits: Bartlett pears, fall and winter pears, Elberta peaches, and plums.

2. Members and alternates for each Commodity Committee shall be selected annually for a term ending February 15, and until their respective successors are selected and have qualified.

3. The Secretary shall select the members of each Commodity Committee and their respective alternates from nominations made by growers as hereinafter provided, or from among other persons. Two (2) persons shall be nominated for each member and two (2) persons shall be nominated for the alternate of each such member. Such nominations shall be made by growers in the respective districts as hereinafter provided.

4. The area covered by this order is hereby delimited into the following districts:

(a) District #1 (North Sacramento Valley) shall consist of Glenn County, Shasta County, Tehama County, Modoc County, Siskiyou County, Lassen County, Plumas County, and Colusa County.

(b) District #2 (Central Sacramento Valley) shall consist of Sutter County, Butte County, Yuba County and Sierra County.

(c) District #3 (Sacramento River) shall consist of Sacramento County, that portion of Yolo County east of a straight line from the northwest corner of Sacramento County to the northeast corner of Solano County, and that portion of Solano County east of a straight line from the northeast corner of Solano County to the town of Rio Vista.

(d) District #4 (Eldorado) shall consist of Eldorado County.

(e) District #5 (Colfax) shall consist of Nevada County and that portion of Placer County north and east of a straight line running northwest through the town of Bowman and extending to the Bear River and southeast to the American River.

(f) District #6 (Placer) shall consist of that portion of Placer County not included in District #5.

(g) District #7 (Vaca) shall consist of that portion of Yolo County not included in District #3 and that portion of Solano County not included in District #3.

(h) District #8 (Contra Costa) shall consist of Contra Costa County.

(i) District #9 (Santa Clara) shall consist of Alameda County, Monterey County, Santa Clara County, San Mateo County, Santa Cruz County and San Benito County.

(j) District #10 (Lake) shall consist of Lake County.

(k) District #11 (North Coast) shall consist of Mendocino County, Humboldt County, Trinity County and Del Norte County.

(l) District #12 (South Coast) shall consist of San Luis Obispo County, Santa Barbara County, Ventura County and that portion of Los Angeles County south of the Tehachapi Mountains and west of a straight line running from the town of Saugus to Point Fermin.

(m) District #13 (Stockton) shall consist of San Joaquin County, Amador County, Calaveras County and Alpine County.

(n) District #14 (Stanislaus) shall consist of Merced County, Stanislaus County, Tuolumne County and Mariposa County.

(o) District #15 (Fresno) shall consist of Madera County, Fresno County and Mono County.

(p) District #16 (Tulare) shall consist of Kings County and Tulare County.

(q) District #17 (Kern) shall consist of that portion of Kern County west of the Tehachapi Mountains.

(r) District #18 (Tehachapi) shall consist of that portion of Los Angeles County north of the San Gabriel Mountains and that portion of Kern County not included in District #17 and Inyo County.

(s) District #19 (Southern California) shall consist of San Bernardino County, Orange County, San Diego County, Imperial County, Riverside County, and that portion of Los Angeles County not included in Districts #12 and #18.

(t) District #20 (North Bay) shall consist of Sonoma County, Napa County and Marin County.

5. (a) Nomination of members and alternates shall be made from the Districts described in paragraph 4 of this section in the following manner:

(1) *Fall and Winter Pear Commodity Committee:*

Ten (10) nominees for members and ten (10) nominees for alternates from District Number 9.

Two (2) nominees for a member and two (2) nominees for an alternate from District Number 4.

Two (2) nominees for a member and two (2) nominees for an alternate from all of the areas covered by this order not included in Districts Number 9 and Number 4.

(2) *Bartlett Pear Commodity Committee:*

Two (2) nominees for a member and two (2) nominees for an alternate from Districts Number 2 and Number 5.

Two (2) nominees for a member and two (2) nominees for an alternate from District Number 6.

Four (4) nominees for members and four (4) nominees for alternates from Districts Number 3 and Number 13.

Two (2) nominees for a member and two (2) nominees for an alternate from Districts Number 10, Number 11 and Number 18.

Two (2) nominees for a member and two (2) nominees for an alternate from District Number 4.

Two (2) nominees for a member and two (2) nominees for an alternate from all of the area covered by this order not included in Districts Number 2, Number 5, Number 6, Number 3, Number 13, Number 10, Number 11, Number 18 and Number 4.

(3) *Elberta Peach Commodity Committee:*

Four (4) nominees for members and four (4) nominees for alternates from District Number 15.

Two (2) nominees for a member and two (2) nominees for an alternate from Districts Number 16 and Number 17.

Four (4) nominees for members and four (4) nominees for alternates from District Number 14.

Two (2) nominees for a member and two (2) nominees for an alternate from District Number 1.

Two (2) nominees for a member and two (2) nominees for an alternate from all of the area covered by this order not included in Districts Number 15, Number 16, Number 17, Number 14 and Number 1.

(4) *Plum Commodity Committee:*

Six (6) nominees for members and six (6) nominees for alternates from Districts Number 5 and Number 6.

Two (2) nominees for a member and two (2) nominees for an alternate from Districts Number 2 and Number 7.

Four (4) nominees for members and four (4) nominees for alternates from Districts Number 15, Number 16, Number 17 and Number 19.

Two (2) nominees for a member and two (2) nominees for an alternate from all of the area covered by this order not included in Districts Number 5, Number 6, Number 2, Number 7, Number 15, Number 16, Number 17 and Number 19.

(b) Said nominations shall be made by growers at general elections in the respective districts, at which elections all growers of the fruit involved shall be entitled to vote. At such an election each grower shall be entitled to cast but one (1) vote on behalf of himself, agents, partners, affiliates, subsidiaries and representatives. Nominations for members of Commodity Committee shall be supervised by the then existing Control Committee, which from time to time shall prescribe therefor such procedure as shall be fair to all concerned: *Provided, however,* That nominations for the initial members and alternates for the Commodity Committee shall be supervised by the persons constituting the Control Committee of the Marketing Agreement for California Fresh Deciduous Tree Fruits, except Apples, executed by the Secretary on July 17, 1935.

SEC. 3. *Failure to Select Nominees.*—In the event nominations are not made pursuant to section 1 of this article by April 15, or pursuant to section 2 by March 15, the Secretary may select such members and alternates without regard to nominations.

SEC. 4. *Vacancies.*—To fill any vacancy occasioned by the removal, resignation, disqualification or death of any member or alternate of the Control Committee or any Commodity Committee, a successor for his unexpired term shall be selected in the manner previously indicated in this article. If such nominations for any such vacancy are not made within twenty (20) days the Secretary may select such member without regard to nominations.

SEC. 5. *Organizations.*—1. (a) The Control Committee shall not perform any of its duties, or exercise any of the powers herein granted while there are more than seven (7) vacancies in its membership.

(b) A majority of all members of the Control Committee shall constitute a quorum and any action of the Control Committee shall require the concurrence of the majority of all members present.

2. (a) A Commodity Committee shall not perform any of its duties or exercise any of the powers herein granted while there are more than two (2) vacancies in its membership.

(b) Five (5) members of a Commodity Committee shall constitute a quorum.

3. The Control and Commodity Committees shall give the Secretary or his designated agents and representatives the same notice of meetings as is given the members of the respective committees.

SEC. 6. *Inability of Members to Serve.*—1. An alternate for a member of the Control or Commodity Committee selected pursuant to the provisions of this article, may act in the place and stead of such member (a) in his absence, or (b) in the event of his removal, resignation, disqualification or death until a successor for his unexpired term has been selected.

2. The shipper members of the Control Committee shall serve without compensation, but shall be entitled to expenses necessarily incurred in the performance of their duties hereunder. The members of the Commodity Committees and grower members of the Control Committee may be paid a compensation of five (\$5.00) dollars per diem for attendance at meetings, together with travelling expenses.

SEC. 7. *Powers of Control Committee.*—The Control Committee shall have the following powers:

1. To administer, as hereinafter specifically provided, the terms and provisions of this order;

2. To make, in accordance with the provisions hereinafter contained, administrative rules and regulations;

3. To receive, investigate and report to the Secretary complaints of violations of this order; and

4. To recommend to the Secretary amendments to this order.

SEC. 8. *Duties of Control Committee.*—The Control Committee shall have the following duties:

1. To act as intermediary between the Secretary and any grower or shipper;

2. To keep minute books and records which will clearly reflect all of its acts and transactions, which minute books and records shall at any time be subject to the examination of the Secretary;

3. To furnish to the Secretary such available information as he may request;

4. To appoint a manager who shall also act as secretary of all committees, such employees as it may deem necessary, and to determine the salaries and define the duties of any such employees;

5. To perform such duties in connection with the administration of Section 32 of the Act to Amend the Agricultural Adjustment Act, and for other purposes, Public No. 320, approved by the President on August 24, 1935, as amended, as may from time to time be assigned to it by the Secretary;

6. To submit to the Secretary, for his approval, a budget of its expenses;

7. To confer with representatives of shippers and growers of fruit produced in other states and areas with respect to the formulation or operation of marketing agreements and orders providing for the regulation of shipments among the several areas in the United States where such fruit is grown;

8. To establish a sales managers' committee of seven (7) members, the members of which shall be selected by the shipper members of the Control Committee. No sales manager shall be eligible for membership unless the organization he represents has paid its contribution pursuant to article VII hereof. One member shall be the representative of a cooperative marketing association. The sales managers' committee shall meet and advise with the commodity committees at all meetings which may pertain to (1) limitation of shipments pursuant to article III, or (2) regulation of grades and sizes pursuant to article IV, or (3) regulation of daily shipments pursuant to article V hereof;

9. To establish and define the duties of additional committees or subcommittees to assist it in the performance of any of its duties and functions hereunder;

10. To disapprove by affirmative vote of seventeen (17) members any action or recommendation of any Commodity Committee: *Provided*, That, in disapproving any recommendation of any Commodity Committee to the Secretary, the reasons therefor shall be immediately submitted to the Secretary;

11. With the approval of the Secretary, to (1) redefine the districts into which the State of California has been delimited by this order or (2) change the representation of any district on any Commodity Committee: *Provided, however*, That if any of such changes are made, representation on any such committee from the various districts shall be based, so far as practicable, upon the proportionate quantity of the particular fruit shipped from the respective districts during the preceding three years;

12. With the approval of the Secretary, to incorporate as a non-profit organization: *Provided*, That such corporation shall not exercise powers expressly or by implication prohibited hereunder and that it shall be subject to all the duties and obligations imposed upon the Control Committee hereunder; and: *Provided, further*, That the stockholders and directors of any such corporation shall be the members of the Control Committee selected by the Secretary pursuant to this order;

13. To defend all legal proceedings against any committee members (individually or as members) or any officers or employees of such committees arising out of any act or omission made in good faith pursuant to the provisions of this order.

SEC. 9. Transmission of Powers and Duties of Control Committee.—In the event that the Control Committee incorporates pursuant to paragraph 12 of section 8 of this article, the powers and duties conferred upon the Control Committee by this order shall devolve upon such corporation: *Provided, however*, That at no time shall such corporation perform any of the powers and duties previously possessed by the Control Committee unless the membership of the governing authority of such corporation is identical with the membership of the Control Committee.

SEC. 10. *Powers and Duties of a Commodity Committee.*—Each Commodity Committee shall have the following powers and duties:

1. With respect to the fruit under its jurisdiction, to recommend to the Secretary, upon the affirmative vote of at least five (5) members, a limitation of shipments pursuant to article III or a regulation of grades or sizes of fruit shipped pursuant to article IV or a regulation of daily shipments pursuant to article V, and to possess such other powers and exercise such other duties as are set forth in this order;

2. To make such rules and regulations with respect to fruit under its jurisdiction as may be necessary to effectuate the terms and provisions of articles III, IV, V, and VI of this order;

3. To submit a budget of its expense to the Control Committee for the approval of the Control Committee;

4. To furnish to the Control Committee and to the Secretary a record of the minutes of its meetings;

5. To establish in each district growers' advisory committees to be composed of growers of said districts, which said committees shall consult with and advise the Commodity Committee;

6. To establish such other committees to aid it in the performance of its duties hereunder as it may deem advisable.

SEC. 11. *Unassembled Voting.*—The Control Committee or any Commodity Committee may, upon due notice to all of its members, provide for voting by letter, telegraph, or by telephone: *Provided, however,* That if such vote is by telephone it shall be immediately confirmed by telegram or letter.

SEC. 12. *Removal and Disapproval.*—The members of the Control Committee or of any Commodity Committee, and any agent or employee appointed or employed by any such committee, shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination or other act of the Control Committee or of any Commodity Committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and upon such disapproval, shall be null and void except as to acts done in reliance thereon or in compliance therewith.

SEC. 13. *Funds.*—All funds received by the Control Committee pursuant to any provisions of this order shall be used solely for the purposes herein specified and shall be accounted for in the following manner:

1. The Secretary may require the Control Committee and its members to account for all receipts and disbursements; and

2. Upon the resignation, removal or expiration of the term of office of any member of the Control Committee, all books, records, funds and other property in his possession shall be delivered to the Control Committee, or to his successor in office, and such assignments and other instruments shall be executed as may be necessary to vest in the Control Committee or his successor full title to all of the books, records, funds and other property in his possession or under his control.

ARTICLE III—PERIOD PRORATION

SECTION 1. *Establishment of Period Proration.*—1. It shall be the duty of each Commodity Committee to investigate supply and demand conditions with respect to the fruit under its jurisdiction.

Whenever any such Commodity Committee deems it advisable to regulate the shipment of such fruit during any particular period or periods, it shall recommend to the Secretary the establishment of a proration period or a series of proration periods during which the shipment of fruit may be regulated pursuant to the methods provided in this article. When any Commodity Committee contemplates such recommendation for the establishment of such a proration period or series of proration periods, it shall call a meeting of such Committee at least twenty-four (24) hours prior to the contemplated commencement of any such proration period or series of proration periods for the consideration of such action, and shall give notice to shippers of such contemplated action.

2. Based upon the recommendations made pursuant to paragraph 1 of this section, and section 7 of this article, and the information accompanying such recommendations, or upon other information, the Secretary shall establish a regulation period or series of regulation periods, including the time of commencement, duration and termination thereof, if the Secretary deems it advisable to regulate the shipment of such fruit. Notice of the establishment of such proration period or series of proration periods and the date of commencement, duration and termination thereof shall be given by the Secretary to the Commodity Committee by telegraph or in any other manner which the Secretary deems sufficient.

SEC. 2. *Definitions.*—For the purposes of this article “cold storage” means the retention of fruit in refrigeration storage exclusive of refrigerator cars, trucks or vessels, for a period of time longer than one hundred and twenty (120) hours; “available for shipment”, unless otherwise specified, means the quantity of fruit not in cold storage which (a) meets the requirements of sections 791, 794, 803, 804, 805 and 806 of the Agricultural Code of the State of California, (b) conforms to the grade and/or size permitted to be shipped under article IV hereof, (c) is ready or to be ready for shipment, and (d) growers or shippers intend to ship during the limitation period.

SEC. 3. *Reports from Shippers.*—Each shipper desiring to ship fruit during such contemplated proration period shall report to the Commodity Committee the quantity of fruit available for shipment during such contemplated proration period, which he owns or has authority from the owner or grower thereof to ship, together with the name of each such owner or grower, and the quantity of fruit which he is authorized to ship for each such owner or grower and which is intended for shipment during such contemplated proration period. Reports shall be made at such time and substantiated in such manner as the Commodity Committee shall prescribe. Each grower who has not given a shipper authority to ship his fruit may make a similar report.

SEC. 4. *Revision of Reports.*—The Commodity Committee may check the accuracy of any report filed pursuant to section 3 and may verify the same in such manner as it may determine, and, on the basis of its findings, may revise and correct any such report.

SEC. 5. *Determination of Quantity Available for Shipment.*—From the reports filed with the Commodity Committee pursuant to section 3 hereof, as the same may be revised and corrected pursuant to sec-

tion 4 hereof, said Committee shall determine for each and all shippers the quantity of fruit available and intended for shipment during such contemplated period.

SEC. 6. *Determination of Advisable Shipments.*—The Commodity Committee shall determine, for each contemplated proration period, the total quantity of fruit which it deems advisable to be shipped during such contemplated proration period. In determining such advisable quantity, said Committee shall give consideration to the supply of and demand for the fruit for which proration is contemplated.

SEC. 7. *Recommendations to the Secretary.*—The Commodity Committee shall report as recommendations to the Secretary its determinations made pursuant to sections 4, 5 and 6 of this article, and shall also report the facts upon which such recommendations were based, and such additional information as the Secretary may from time to time request.

SEC. 8. *Determinations of Allotments by the Secretary.*—1. From the facts reported and the recommendations made pursuant to section 7 of this article, or from other information, the Secretary shall determine:

(a) The quantity of fruit which each shipper has available for shipment during such proration period;

(b) The total quantity of fruit which all shippers have available for shipment during such proration period; and

(c) The total quantity of fruit advisable for shipment during such proration period.

2. The Secretary shall advise the Commodity Committee of the determinations made pursuant to paragraph 1 of this section, and the Commodity Committee shall calculate the allotment percentage by dividing the total quantity of fruit advisable for shipment, as determined by the Secretary, by the total quantity of fruit which shippers have available for shipment during such period, as determined by the Secretary.

3. The Commodity Committee shall multiply the quantity of fruit which each shipper has available for shipment during such proration period, as determined by the Secretary, by the allotment percentage, and the result of such multiplication shall be the allotment fixed by the Secretary for each such shipper. The Commodity Committee shall notify each shipper of his allotment and of the allotment percentage.

4. Each shipper shall apportion the quantity of fruit represented by his allotment equitably among the growers whose fruit he reported to the Commodity Committee pursuant to section 3 of this article by applying the allotment percentage for each period to the available supply of each such grower as determined by the Secretary.

SEC. 9. *Proration from Cold Storage.*—In the event the quantity of fruit not in cold storage and available for shipment is less than the quantity advisable for shipment, fruit in cold storage available for shipment may be prorated in the same manner as prescribed in this article for proration of fruit not in cold storage. For the purposes of prorating the shipments of cold storage fruit, "advisable for shipment" shall mean the quantity of fruit advisable for shipment

from the state, less the quantity of fruit not in cold storage available for shipment. "Available for shipment" shall mean fruit in cold storage in the State of California, which otherwise meets the requirements of fruit available for shipment as defined in section 2 of this article.

SEC. 10. *Transfer of Allotments*.—Any shipper to whom an allotment has been made may transfer such allotment, in whole or in part. The amount of such transfers shall be deducted from the allotment of the transferor and added to the allotment of the transferee.

SEC. 11. *Over and Undershipments*.—No shipper shall ship fruit in excess of his allotment for any proration period except for additional allotments transferred to him pursuant to the foregoing provisions of this article: *Provided, however*, That shipment of less than one carload in excess of a shipper's allotment shall not be a violation of this order if such shipper advises the Commodity Committee of such overshipment within forty-eight (48) hours. The quantity of fruit shipped in excess of the allotment shall be offset by a reduction of an equal amount from the quantity of fruit represented by his allotment for the next proration period, or if such allotment is less than the overshipment then such excess shipment shall be deducted from the quantity of fruit represented by succeeding allotments until such excess shipment has been entirely offset. If any shipper ships less than his allotment for a particular proration period, such shipper may ship, during only the next proration period in which such shipper is given an allotment, in addition to his allotment, a quantity equal to such undershipment: *Provided*, That such undershipment is reported to the Commodity Committee prior to the commencement of such succeeding period and request made in writing for such shipment in addition to his allotment.

SEC. 12. *Cancellation of Proration Period*.—If the limitation of shipments during any proration period is rendered unnecessary by reason of unforeseen increased demand, reduction in the available supply, or other causes, the Secretary may terminate such proration period.

SEC. 13. *Petitions for Adjustments of Reports for Allotments*.—Any shipper or grower dissatisfied with the revision of his report by the Commodity Committee may request a reconsideration of such revision by such Committee and may appeal to the Secretary. In the event of such appeal to the Secretary, the Commodity Committee shall furnish a report to the Secretary setting forth the action taken and the reasons therefor. The petitioner involved shall abide by the determination of the Commodity Committee pending the disposition of such appeal by the Secretary.

ARTICLE IV—REGULATION BY GRADES AND SIZES

SECTION 1. *Recommendation of the Commodity Committee*.—Whenever a Commodity Committee deems it advisable to regulate the shipment of any grade or size of any variety or varieties of fruit under its jurisdiction from any or all districts, it may so recommend to the Secretary. The Commodity Committee shall furnish the Secretary the facts upon the basis of which it acted in making such

recommendation, which shall include facts affecting the supply of and the demand for fruit by grades and sizes thereof, and any other information requested by the Secretary.

SEC. 2. *Regulation of Shipments.*—1. Based upon such recommendation and information furnished by the Commodity Committee, or upon other information, the Secretary may limit the total quantity of any grade or size of any variety or varieties of fruit which may be shipped during any period from any or all districts.

2. When the Secretary determines to regulate shipments as provided herein, he shall immediately notify the Commodity Committee of the determinations made by him pursuant to paragraph 1 of this section, and the Commodity Committee shall give notice to shippers thereof.

3. No shipper shall ship any fruit in violation of a regulation of shipments established as provided in this article.

SEC. 3. *Exemptions.*—1. In the event the shipment of any variety or varieties of fruit from any district or districts is regulated in accordance with this article, thereupon whenever the Commodity Committee shall find that one-half ($\frac{1}{2}$) of the estimated shipments for the marketing period of such variety or varieties of fruit in any district or districts has been shipped, it shall, or at any time before one-half ($\frac{1}{2}$) of such estimated shipments of such variety or varieties of fruit in such district or districts has been shipped, it may determine and announce the percentages which the grades and sizes of such variety or varieties of fruit which are permitted to be shipped are of the total of the estimated shipments for the marketing period in the absence of regulation of such variety or varieties in such district or districts, and at the same time shall announce the procedure by which special certificates will be issued to growers as set forth in paragraph 2 of this section.

2. If any grower of such variety or varieties of fruit shall show to the Commodity Committee that the regulation of shipments will allow him to ship during the period a percentage of his estimated shipments for the marketing period in the absence of regulation of such variety or varieties of fruit which is less than the percentage found in accordance with paragraph 1 of this section for his district, the Commodity Committee shall issue to such grower an exemption certificate allowing shipment of such a quantity of the limited grade and size of such variety or varieties of fruit as will enable him to ship during the period a percentage of his estimated shipments for the marketing period in the absence of such regulation equal to the percentage found in accordance with paragraph 1 of this section.

3. If any grower is dissatisfied with the determination by the Commodity Committee with respect to such exemption certificate he may appeal to the Secretary, whose decision in the matter shall be final.

SEC. 4. *Inspection Certificates.*—The Secretary may require shippers to submit to the Commodity Committee Federal-State certificates setting out the size and grade of each variety or varieties of fruit, the shipment of which is being regulated pursuant to this article.

ARTICLE V—REGULATION OF DAILY SHIPMENTS

SECTION 1. *Definitions.*—As used in this article:

1. "Railroad concentration point" means any railroad point designated by the Commodity Committee and approved by the Secretary;

2. "Cold storage concentration point" means any cold storage plant in the State of California;

3. "Arrive" or "arrival" means:

(a) The actual time of arrival of a car of fruit at a railroad concentration point, if such car is not pre-cooled at such concentration point;

(b) The actual time when pre-cooling is completed if the car of fruit is pre-cooled at the railroad concentration point;

(c) Such time subsequent to the actual delivery of a carload (or equivalent) of fruit at a cold storage concentration point as the Commodity Committee for such fruit may prescribe by rules and regulations approved by the Secretary;

4. "Cold storage" means retention of fruit under refrigeration in a storage warehouse for such period of time and under such conditions as the Commodity Committee may prescribe by rules and regulations approved by the Secretary;

5. "Available" for a particular day means (a) when used with reference to the fruit of a shipper whose fruit is being regulated at concentration point, the quantity of fruit controlled by him arriving at any or all concentration points that day, (b) when used with reference to the fruit of a shipper whose fruit is being regulated at shipping point, the quantity of fruit which he controls packed by or for him that day;

6. "Total available" for a particular day means the quantity available for shipment that day by all shippers whose shipments are regulated at shipping points plus the quantity of fruit arriving that day at all concentration points controlled by all shippers electing regulation at concentration points;

7. "Fruit controlled" means (1) fruit to which the shipper has legal title, (2) fruit on which the shipper has paid at least five (5) percent of the purchase price, or (3) fruit whose owner has authorized a shipper to ship.

SEC. 2. *Establishment of Regulations.*—1. The Commodity Committee for a particular fruit may, from time to time, recommend to the Secretary the regulation of daily shipments of any or all varieties of such fruit during a particular period of time. Such recommendation shall specify (1) the period of time for regulation, (2) the advisable daily shipments during such period, and (3) the variety or varieties to which the regulation shall be applicable; and the Secretary shall be furnished with the information upon which such recommendation was based.

2. If upon the basis of such information and recommendation, or other information available to the Secretary, the Secretary shall find that limitation of daily shipments during a regulation period will effectuate the purposes of this order, he shall establish a regulation period and determine the total advisable quantity of such

fruit to be shipped daily during such period, and shall notify the Commodity Committee of such action. The Commodity Committee shall give such notice thereof as may be reasonably calculated to bring such regulation to the attention of interested persons.

3. Every shipper desiring to ship such fruit from any shipping point during a regulation period shall elect whether such fruit shall be regulated at concentration point or shipping point, and shall advise the Commodity Committee of his choice. The fruit of any shipper who fails to make such election shall be regulated at concentration points. Any shipper electing regulation at concentration point for fruit from any particular shipping point shall not elect regulation at any such shipping point until all such fruit at concentration points has been released.

4. Each shipper whose fruit is regulated at railroad concentration point shall file with the carrier an order directing it to stop each carload of such fruit at such concentration point until its release is ordered by the Commodity Committee.

SEC. 3. *Reports by Shippers.*—1. Each shipper whose fruit is regulated at cold storage concentration points shall report to the Commodity Committee for such fruit the time when each carload equivalent of such fruit controlled by him entered a cold storage point.

2. Each shipper whose fruit is regulated at shipping point shall report daily, to the Commodity Committee for such fruit, the total quantity of fruit controlled by him which he has available at each packing shed on that day.

SEC. 4. *Allotment Percentage.*—The allotment percentage for a particular fruit for a particular day during a regulation period shall be the percentage obtained by dividing the advisable quantity of such fruit to be shipped that day, determined by the Secretary pursuant to paragraph 2, section 2 of this article, by the total available of such fruit on the first day prior thereto, if then known by the Commodity Committee, otherwise on the second day prior thereto. The total available and allotment percentage shall be calculated by the Commodity Committee: *Provided, however,* That no allotment percentage for Bartlett pears shall be calculated for any day if the Commodity Committee determines that a prohibition of loading of such pears, pursuant to section 8 of this article, has affected the "total available" to be used in calculating the allotment percentage for that day.

SEC. 5. *Allotments at Shipping Point.*—1. The allotment of packages of such fruit of any shipper regulated at shipping point, for a particular day, shall be the result obtained by applying the allotment percentage for that day to such shipper's component part of the total available used in determining said allotment percentage.

2. In the event the allotment percentage for a particular day cannot be calculated pursuant to section 4 of this article, the allotment percentage of the previous day shall be used in calculating allotments for that day: *Provided, however,* That the allotment for that day of any shipper electing regulation at shipping point shall not exceed his allotment of the previous day.

3. The shipment of less than one carload in excess of a shipper's allotment shall not be a violation of this order if such shipper advises the Commodity Committee of such overshipment. The quantity of

fruit shipped in excess of the allotment shall be offset by a reduction of an equal amount from his allotment for the next day, or if such allotment is less than the overshipment then such excess shipment shall be deducted from succeeding allotments until such excess shipment has been entirely offset.

4. If any shipper ships less than his allotment for a particular day, such shipper may ship, during only the next day in which such shipper is entitled to an allotment, in addition to his allotment, a quantity equal to such undershipment: *Provided*, That such undershipment is reported to the Commodity Committee prior to the commencement of such succeeding day.

5. Except as provided in paragraphs 3 and 4 of this section, no shipper shall ship fruit in excess of his allotment. The Commodity Committee shall determine each shipper's allotment and advise him thereof, together with the total available fruit used in determining such allotment.

6. Fruit shipped pursuant to allotments at shipping point shall not be detained at concentration points.

7. The quantity of fruit representing the difference between the available quantity which is used as the basis of an allotment of a shipper electing regulation at shipping point, and the allotment of such shipper shall not be shipped by any shipper during such time as regulation pursuant to this article is in effect, except as provided in section 9 hereof. The Commodity Committee may require any shipper to account for the disposition of such quantity of fruit in excess of such an allotment at such time and in such manner as it may prescribe in rules and regulations approved by the Secretary.

SEC. 6. *Shipments from Concentration Points.*—1. The quantity of fruit which may be shipped on any day during a regulation period from all concentration points shall be the total advisable quantity to be shipped that day determined by the Secretary pursuant to paragraph 2 of section 2 of this article, less (a) the quantity of fruit shipped by shippers electing regulation at shipping points and arriving at railroad concentration points in time to depart that day and (b) the quantity of fruit which was shipped by boat by all shippers on such prior day as the Commodity Committee may prescribe in rules and regulations approved by the Secretary.

2. The first carload of fruit arriving at any concentration point and subject to regulation thereat shall be the first carload released for shipment from all concentration points on any particular day, and succeeding carloads shall be released for shipment in the order of arrival until the total quantity for that day has been released. The maximum time that cars may be held in concentration points shall be prescribed by the Commodity Committee in rules and regulations approved by the Secretary: *Provided, however*, That no car shall be held at any concentration point longer than four (4) days whenever there are any cars being regulated at railroad concentration points.

3. Whenever any shipper has one or more carloads of fruit at a concentration point or points which have priority of shipment at a given time, and has also other carloads which do not have priority, such shipper may substitute any carload without priority for any carload having such priority.

SEC. 7. *Adjustment for Shipments by Boat.*—In the event a shipper who elects regulation at concentration point ships a quantity of fruit to destinations within the Continent of North America by boat, each carload of an equivalent quantity of such shipper's fruit at concentration points on such day or days prior to the expected arrival of such boat shipment as said Commodity Committee shall prescribe by rules and regulations approved by the Secretary shall be backed-up in priority the same number of carloads as are represented by such boat shipments.

SEC. 8. *Prohibition of Loading of Bartlett Pears.*—1. If and when the Bartlett Pear Commodity Committee determines that the accumulation of Bartlett pears at any or all concentration points may become excessive, upon the recommendation of this committee, supported by specific information, or upon the basis of other information, the Secretary may prohibit the loading of Bartlett pears for shipment to any or all railroad concentration points for a period of forty-eight (48) hours: *Provided*, That there shall elapse not less than ninety-six (96) hours between the last day of one period and the first day of the next succeeding period.

2. Any quantity of Bartlett pears loaded for shipment to any cold storage concentration point during a prohibition period shall not be eligible for release for shipment during such time as Bartlett pears are being regulated pursuant to this article, except as provided in section 9 hereof.

3. For a period of forty-eight (48) hours succeeding the termination of any prohibition period established pursuant to paragraphs 1 and 2 of this section, no shipper who shipped such fruit to railroad concentration points or shipped such fruit to cold storage concentration points during the forty-eight (48) hours prior to such prohibition period shall ship Bartlett pears to concentration points in excess of the quantity of such fruit such shipper so shipped during the period of forty-eight (48) hours prior to such prohibition period.

SEC. 9. *Shipment of Storage Fruit.*—Fruit in cold storage shall not be shipped on any particular day during a regulation period unless the quantity of the fruit regulated at shipping points and arriving at railroad concentration points in time to depart that day plus the quantity of the fruit eligible for release at concentration points that day is less than the total advisable quantity of the fruit for shipment that day. When such conditions exist, such fruit may be released from cold storage for shipment during a regulation period in the same sequence as that in which such fruit has been placed in storage; *Provided, however*, That such releases for shipment from cold storage on any day shall be limited to the amount of the fruit advisable to be shipped pursuant to section 2 of this article less the quantity of the fruit regulated at shipping points and arriving at railroad concentration points in time to depart that day and the quantity of the fruit eligible for release at concentration points on that day: *Provided, further*, That any quantity of fruit in cold storage may be substituted for the same quantity of fruit to be shipped pursuant to regulation at shipping or concentration points.

SEC. 10. *Exceptions.*—Cars containing less than one-half by billing weight of fruit covered by a regulation pursuant to this article shall be exempt from such regulation.

SEC. 11. *Revision and Correction of Reports.*—The Commodity Committee may check the accuracy of any reports filed pursuant to this article and may verify the same in such manner as it may determine, and, on the basis of its findings, may revise and correct any such report.

ARTICLE VI—EXEMPTIONS

SECTION 1. *Shipments for Charity or for By-products.*—Nothing contained in this order shall be construed to authorize any limitation on the right to ship fruit in any amount for canning, freezing, conversion into by-products, or for charitable or unemployment relief purposes.

SEC. 2. *Export Shipments.*—Fruit exported to destinations exclusive of the Continent of North America shall not be subject to regulation pursuant to articles III, IV and V hereof: *Provided, however,* That fall and winter pears for export to destinations exclusive of the Continent of North America may be regulated pursuant to articles III, IV or V at such times as the Commodity Committee may prescribe with the approval of the Secretary.

ARTICLE VII—ASSESSMENTS

SECTION 1. *Expenses and Assessments.*—1. The Control Committee is authorized to incur such expenses as the Secretary finds may be necessary to carry out the functions of the Control Committee and Commodity Committees under this order. The funds to cover such expenses shall be acquired by the levying of assessments as hereinafter provided.

2. Each shipper shall pay to the Control Committee upon demand such shipper's pro rata share, as is approved by the Secretary, of the expenses in the amount of \$11,550.00 for general overhead expenses during the 1936-1937 season or expenses in such other amount as the Secretary may later find will necessarily be incurred by said Committee during said season for the maintenance and functioning of the Control and Commodity Committees for general overhead expenses for all fruits during the season as set forth in this order. Each shipper who ships fruit, the shipment of which is being regulated pursuant to article III, article IV or article V of this order, shall also pay to the Control Committee, upon demand, such shipper's pro rata share, as is approved by the Secretary, of the expenses incurred in administering the regulations set forth in said article III, article IV or article V for the particular fruit so regulated. Each shipper's pro rata share of the general administrative expenses shall be that proportion thereof which the total quantity of fruit shipped by such shipper during said season is of the total quantity of such fruit shipped by all shippers during said season. Each shipper's pro rata share of the expenses necessary in the administration of regulations pursuant to article III, article IV or article V, for a particular fruit, as approved by the Secretary, shall be that proportion thereof which the total quantity of such fruit shipped by such shipper during said season is of the total quantity of such fruit shipped by all shippers during said season. The initial assessment upon each shipper for general administrative expenses

shall be 4 mills per 100 pounds of fruit shipped and said assessment shall be adjusted from time to time by the Control Committee, with the approval of the Secretary, in order to provide funds sufficient in amount to cover any later finding by the Secretary of such estimated expenses or actual expenses incurred by the Control Committee during said season. The initial assessment for each shipper of a particular fruit for expenses necessary in the administration of any regulation for such fruit pursuant to article III, article IV, or article V of this order, shall be such amount as is approved by the Secretary and said assessments shall be adjusted from time to time by the Control Committee, with the approval of the Secretary, in order to provide funds sufficient in amount to cover any later finding by the Secretary of such estimated expenses or actual expenses incurred by the Control Committee during said season. The assessments of each shipper for any season shall be due at such time and shall be payable in such installments, if any, as the Control Committee shall determine.

3. For seasons subsequent to the season of 1936, each shipper shall pay to the Control Committee upon demand and in accordance with the procedure given in paragraph 2 of this section such shipper's pro rata share of such expenses as are approved by the Secretary and as he may find will necessarily be incurred by the Control Committee for the maintenance and functioning of the Control and Commodity Committees as set forth in this order.

4. In order to provide funds to carry out the functions of the Control and Commodity Committees prior to the commencement of shipments in any season, shippers may make advance payments of assessments, which advance payments shall be credited to such shippers and the assessments of such shippers shall be adjusted so that such assessments are based upon the quantity of fruit shipped by such shippers during such season.

5. At the end of each season the Control Committee shall credit each contributing shipper with the excess of the amount paid by such shipper above his pro rata share of the expenses, or debit such shipper with the difference between his pro rata share and the amount paid by such shipper. Any such debits shall become due and payable upon the demand of the Control Committee.

6. From funds acquired pursuant to this article the Control Committee shall pay the salaries of the employees of the Control Committee, and the expenses necessarily incurred in the maintenance and functioning of the Control and Commodity Committees in the performance of their duties under this order.

ARTICLE VIII—REPORTS

SECTION 1. *Information to Secretary.*—All shippers shall severally, from time to time, upon request of the Secretary, furnish him with such information as he finds to be necessary to enable him to ascertain and determine the extent to which this order has been carried out or has effectuated the purposes of this order, and with such other information as he finds to be necessary to determine whether or not there has been an abuse of the privilege of exemption from the anti-trust laws. Such information shall be furnished in accordance with forms of reports to be prescribed by the Secretary.

SEC. 2. *Reports to Committees.*—1. For the purpose of enabling the Control and Commodity Committees to perform their respective functions under this order, each shipper shall furnish to a confidential employee or employees designated by the Control and Commodity Committees, in such form and at such times and substantiated in such manner as shall be prescribed respectively by the Control and Commodity Committees, information with respect to the quantity, kind, variety, grade, and size of fruit, grower for whom such fruit is shipped, number of cars ordered, car numbers, routing, diversion and destination of cars shipped during such periods of time as designated respectively by the said Committees. Such information furnished to the aforesaid employee or employees may be compiled in such form as will not reveal the identity of individual informants and such compilations may be made available to the public. Such employees shall not (except in compiled form) reveal any such information or reports to any person other than the Secretary or the Control and Commodity Committees. Neither the Control or Commodity Committees shall reveal such information or reports to persons other than the Secretary. If any confidential employee discloses any such information or reports except as aforesaid, he shall be subject to immediate removal by the Secretary.

2. Each shipper shall furnish to the appropriate Commodity Committee the time of entrance into cold storage of each carload of fruit which he controls.

3. Upon the request of the Control Committee, made with the approval of the Secretary, each shipper shall furnish to the Control Committee or any Commodity Committee in such manner and at such times as it prescribes, such other information as is necessary to enable any such committee to perform its powers and duties under this order.

ARTICLE IX—LIABILITY OF COMMITTEE MEMBERS

SECTION 1. *Liability.*—No member of the Control Committee or any Commodity Committees or any subcommittees nor any employee of the Control Committee shall be held responsible individually in any way whatsoever to any shipper or any other person for errors in judgment, mistakes or other acts either of commission or omission as such member or employee, except for acts of dishonesty.

ARTICLE X—SEPARABILITY

SECTION 1. *Separability.*—If any provision of this order is declared invalid or the applicability thereof to any person, circumstance or thing is held invalid, the validity of the remainder of this order and/or the applicability thereof to any other person, circumstance or thing shall not be affected thereby.

ARTICLE XI—DEROGATION

SECTION 1. *Derogation.*—Nothing contained in this order is or shall be construed to be in derogation or in modification of the rights of the Secretary or of the United States (1) to exercise any powers granted by the act or otherwise, and/or (2) in accordance with such

powers to act in the premises whenever such action is deemed advisable.

ARTICLE XII—DURATION OF IMMUNITIES

SECTION 1. *Duration of Immunities.*—The benefits, privileges and immunities conferred by virtue of this order shall cease upon its termination except with respect to acts done under and during the existence of this order.

ARTICLE XIII—AGENTS

SECTION 1. *Agents.*—The Secretary may by a designation in writing name any person, including any officer or employee of the Government, or any Bureau or Division in the Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this order.

ARTICLE XIV—EFFECTIVE TIME AND TERMINATION

SECTION 1. *Effective Time.*—This order shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force until April 1, 1938, unless terminated prior to such time in one of the ways hereinafter specified.

SEC. 2. *Termination.*—1. The Secretary may at any time terminate this order by giving at least one (1) day's notice by means of a press release or in any other manner which the Secretary may determine.

2. The Secretary shall terminate or suspend the operation of this order, or of any provision thereof, whenever he finds that said order, or any provision thereof, obstructs or does not tend to effectuate the declared policy of the Act.

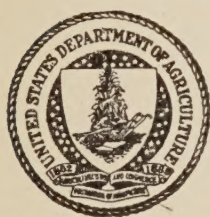
3. The Secretary shall terminate this order as to a particular fruit covered hereby at the end of any marketing period for such fruit whenever he finds that such termination is favored by a majority of the growers of such fruit who, during the current marketing period for such fruit, have been engaged in the production of such fruit in the area covered by this order for shipment in fresh form: *Provided*, That such majority have, during such period, produced for fresh shipment more than fifty (50) percent of the volume of such fruit produced for fresh shipment within the area, but such termination shall be effective only if announced on or before July 30 in the case of winter pears, and on or before March 30 in the case of other fruits. The marketing period for all fruits except fall and winter pears shall be April 1 of one year until March 31 of the following year, and the marketing period for fall and winter pears shall be August 1 of one year until July 31 of the following year.

4. This order shall terminate whenever the provisions of the act authorizing it cease to be in effect.

SEC. 3. *Proceedings after Termination.*—1. Upon the termination of this order, the members of the Control Committee then functioning shall continue as joint trustees, for the purpose of this order, of all funds and property then in the possession or under the control of the Control Committee, including claims for any funds unpaid or property not delivered at the time of such termination. Said

trustees (a) shall continue in such capacity until discharged by the Secretary; (b) shall from time to time account for all receipts and disbursements and/or deliver all funds and property on hand, together with all books and records of the Control Committee and the joint trustees, to such person as the Secretary shall direct, and (c) shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, and/or claims vested in the Control Committee or the joint trustees pursuant to this order; and (d) shall refund to each contributing shipper the excess of the amount paid by such shipper above his pro rata share of expenses, or debit each shipper with the difference between his pro rata share and the amount paid by any such shipper, if such amount is less than his pro rata share. Any such debit shall become due and payable upon the demand of the said trustees. Nothing stated herein shall be deemed to preclude the bringing of a suit for assessments levied by the Control Committee at any time prior to the termination of this order.

2. Any person to whom funds, property, and/or claims have been delivered by the Control Committee or its members upon direction of the Secretary, as herein provided, shall be subject to the same obligations and duties with respect to said funds, property, and/or claims as are hereinabove imposed upon the members of said Committee or upon said joint trustees.



IN WITNESS WHEREOF, the Secretary of Agriculture does hereby execute in duplicate, and issue this order in the City of Washington, District of Columbia, on this 23rd day of May 1936, and pursuant to the provisions hereof declares this order to be effective on and after 12:01 a. m. Eastern Standard Time May 25, 1936.

H. Wallace
 Secretary of Agriculture.

